IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

WRIT PETITION NO.594 (MS) OF 2006

1. Deep Marble and Granites General Mahadeo Singh Road Near Bhoosa Store Kanwali gram Dehradun.
2. Shri S.R. Sharma, S/o Shri Ram Sahai Sharma, R/o 96/96 Khudbuda Block Second Dehradun.

.....Petitioner.

Versus

1. The Addl. District Judge/Fast Track Court 6th Dehradun.
2. Shri Raj Kumar, S/o Shri Gayadin,
3. Shri Govind Ram, S/o Shri Gayadin, both resident of 62 Naach Gali No. 110 Kaulagarh, Dehradun.
4. Shri J.B. Garg S/o late Shri M.M. Lal, R/o 282, Chandra Negar Dehradun.
5. Sri Vikas Garg, S/o J.B. Garg, R/o 282, Chandra Nagar, Dehradun, Uttaranchal. .....Respondents.

Dated: 19.05.2006

Hon'ble Rajesh Tandon, J.

Heard Sri Vijay Bhatt, Advocate for the petitioner and Standing Counsel for the respondent no. 1. Both the parties have agreed that let the matter be finally disposed of.

By the present writ petition, the petitioner has challenged the order dated 8th May, 2006 by which he is deprived of the opportunity to participate in the proceedings and application has been rejected ex parte.

Briefly stated, the petitioner has filed suit for specific performance of the contract being Suit No.184 of 2004 along

with an application for injunction under the Order 39 Rule 1 C.P.C. The petitioner has also filed an application for survey by the Advocate Commissioner. All the applications; namely 17-D, 62-C and 39-C(2) have been rejected in absence of the petitioner.

However, without entering into the merit of the controversy, liberty is given to the petitioner to move an application for recalling of the order dated 8th May, 2006. If such an application is filed, the Presiding Officer shall after giving the opportunity to the parties decide the same in according with law.

Subject to the aforesaid, writ petition is disposed of. Copy of the order be given today.

(Rajesh Tandon, J.)

19.05.2006
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